HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 449 of 2006 (MS)

Prem Chand alias Pattu s/o Sri Nathu Singh
48 Tilak Raod, Dehradun ..... Petitioner

versus

1. Civil Jude (JD), Dehradun
2. Smt. Prema Devi w/o Sri Tilak Road, Dehradun
3. Sri Sanjay Kumar s/o late Sri Tilak Raj, 57, Tilak Road, Dehradun
4. Smt. Hem Lata d/o Late Sri Tilak Raj, 150 Khurbura Mohalla, Dehradun ..... Respondents

Sri H.M. Bhatia, Advocate for the petitioner
Standing Counsel for the respondents.

Dated: 27.4.2006

Hon'ble Rajesh Tandon, J.

Heard the learned counsel for the parties at length.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the Civil Judge (JD) SCC Dehradun to dispose of the application under Order 9 Rule 13 C.P.C. expeditiously.

According to the petitioner he has filed a suit against the respondents for possession and recovery of damages which was registered as SCC No. 13 of 2001. Despite the service, respondents no. 2 to 4 did not appear in the Court and the suit was decreed ex parte against the respondents on 6.4.2004. Thereafter the respondents moved application under Order 9 Rule 13 for setting aside the ex parte decree.

The grievance of the petitioner is that the said application is pending since 2004 in the trial Court. He has also submitted

that decree was passed for recovery of rent @ Rs.900/- per month but nothing has been paid by the judgment debtor till now.

In view of the above, the Civil Judge (JD), Dehradun is directed to dispose of the application under Order 9 Rule 13 C.P.C. within four weeks after obtaining certified copy of this order. Liberty is given to the petitioner to prefer an application before the Civil Judge for payment of monthly rent.

Accordingly, the writ petition is disposed of. No order as to costs.

Dated: 27.4.2006 **Rajesh Tandon, J.**

*Dhyani